



PATENT
DKK-489

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Lynn Bergmeyer, et al.

Serial No.: 08/062,021

Art Unit: 1807

#24

Filed : May 14, 1994

Examiner: P. Tran

For : DIAGNOSTIC COMPOSITIONS, ELEMENTS, METHODS AND TEST KITS FOR AMPLIFICATION AND DETECTION OF HUMAN CMV DNA USING PRIMERS HAVING MATCHED MELTING TEMPERATURES

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231 on

October 17, 1995
(Date of Deposit)

Stasia L. Ogden
Name of applicant, assignee, or Registered Representative

Stasia L. Ogden
(Signature)

October 17, 1995
(Date of Signature)

Hon. Commissioner of Patents
and Trademarks
Washington, D.C. 20231

RENEWED PETITION UNDER 37 C.F.R. § 1.181 REQUESTING
WITHDRAWAL OF THE DISMISSAL OF APPLICANTS' APPEAL

Dear Sir:

In accordance with the provisions of 37 C.F.R. § 1.181, Applicants' counsel respectfully petitions the Commissioner to withdraw the dismissal of the appeal in the above-identified application because the dismissal was due to the failure of Applicants' counsel to receive the Examiner's Answer and Examiner Interview Summary Record that was resent to Applicants' counsel on February 23, 1995. This Petition is filed in response to the Decision of Petition mailed by the Patent and Trademark Office on October 3, 1995.

Applicants' counsel filed an Appellant Brief on September 13, 1994, in the above-identified application. After the Appellant Brief was filed, an Associate Power of Attorney was filed in the Patent Office directing that all future written communications be sent to Audley A. Ciamporcero at One Johnson & Johnson Plaza, New Brunswick, NJ 08933-7003. In spite of the filed Associate Power of Attorney, the Patent Office mailed the Examiner's Answer on December 16, 1994 to J. Lanny Tucker at Eastman Kodak Co. Upon receipt of the Examiner's Answer from Eastman Kodak Co., counsel at Johnson & Johnson contacted Examiner Tran on January 19, 1995, and requested that the Examiner's Answer be resent and the period for response reset. At that time the Examiner agreed to the request and the Examiner's Answer was resent on February 23, 1995.

Applicants' counsel, however, did not receive the resent copy of the Examiner's Answer and filed a Request for Resending of the Examiner's Answer and Restarting of the Period for Response on August 11, 1995. This Request, treated as a petition under 37 C.F.R. 1.181 by the Patent and Trademark Office, was dismissed in a Decision mailed October 3, 1995, because the Examiner's Answer had been resent on February 24, 1995. In dismissing Applicants' petition, the Patent and Trademark Office stated that the present situation appeared to be covered by 1156 O.G. 53 titled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" and suggested that Applicants' file a renewed Petition under 37 C.F.R. § 1.181 based on the notice in 1156 O.G. 53. Accordingly, Applicants' counsel is filing this renewed Petition.

In support of this renewed Petition, Applicants' counsel respectfully states that:

1. The resent Examiner's Answer mailed by the Patent and Trademark Office was not received by Applicants' counsel at Johnson & Johnson.

2. A complete search of the file jacket of the above-identified application was conducted and no copy of the resent Examiner's Answer was found.

3. In addition, a complete search of the computer docket system used by Johnson & Johnson indicated that the resent Examiner's Answer was not received by Applicants' counsel. Attached as Exhibit A is a copy of the docket records for the above-identified application. If the Examiner's Answer had been received, it would have been entered into the computer docket system and would appear on page 2 of the attached docket history printout.

Favorable consideration of this Petition, withdrawal of the dismissal of the appeal, and remailing of the Examiner's Answer in the above-identified application with a new date for response are respectfully requested.

If there are any fees due in connection with the filing of this request, please charge the fees to our Deposit Account No. 10-0750/KDK-489/SLO in the name of Johnson & Johnson.

Respectfully submitted,

Stasia L. Ogden
Stasia L. Ogden
Reg. No. 36,228
Attorney for Applicants

Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003
(908) 524-2819
October 17, 1995

ATTACHMENT A

N2086120

PATENTS: COUNTRY APPLICATION MAINTENANCE

Active Ind: A

Enter COMMAND: C (Change) V (View Next Screen) E (End w/o update) V
Docket Number: KDK0489 Country: USA Sub-case no.: 1 Priority: _ Exam: _
Pros. atty: SO Case type: Frgn fil. rvwd
Assignee Reel/Frame Recordal date Reel/Frame Recordal date
KODAK 6602631 05 14 1993 _____

Affiliate comp: CDSI _____ Paying comp: CDSI _____ Lic ind: _____ Ext ind: _____
Publication no.: _____ Pub.date: _____ Laid open date: _____
Pros. agent: _____ Treaty type: Y _____
Tax agent: _____ Tax start dt: _____ Tax ins.: P _____
Tax schedule: _____ Paid thru yr: _____ Future abandon dt: _____
--Status-- Application Number --Patent Number--- Foreign Filing Deadline
PENDING 08/062021 _____
Status Date Filing Date Issue Date Expiration Date
05 14 1993 05 14 1993 _____
Remarks: _____ (U.S. Status check date: _____)
DIAGNOSTIC COMPOSITIONS, ELEMENTS, METHODS AND TEST
KITS FOR AMPLIFICATION AND DETECTION OF HUMAN CMV _____

PF: 3/15=END W/O UPDATE
SBÜ Aa

7/19=ANOTHER SCREEN

04/071

N2086130 PATENTS: DOCKET HISTORY MAINTENANCE - SCREEN ONE
 Enter: C (Change) V (Next Screen) E (End w/o update) N (Normal Exit) V
 Docket Number: KDK0489 Country: USA Sub-case no.: 1

Seq No	Pat.Ofc Dt.	Action / Response	X	Due Date / Date Sent	Aty	Flg
01		Inquiry _____ RESPONSE: REMOVED _____		03 13 1995 00 00 0000	—	—
02	12 16 1994	REPLY BRIEF NEW PTS_ F RESPONSE: REMOVED _____		02 16 1995 00 00 0000	—	—
02	12 16 1994	REQ ORAL HEARING _____ F RESPONSE: REMOVED _____		02 16 1995 00 00 0000	—	—
03	12 16 1994	REPLY BRIEF NEW GRDS F RESPONSE: REMOVED _____		02 16 1995 00 00 0000	—	—
04	10 03 1995	RESPONSE DUE _____ F RESPONSE: _____		12 03 1995 — — — —	—	—

PF:3/15=END W/O UPDATE
 SBÜ Aa

7/19=ANOTHER SCREEN

03/071